

STATE OF COLORADO

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Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department
of Public Health
and Environment

October 25, 1995

William Yellowtail
Administrator, Region VIII - EPA
999 18th Street, Suite 500
Denver, Colorado 80202-2466

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Dear Bill:

As you know we have been involved in focused discussions with the Sunnyside Gold Corporation for nearly 18 months concerning the company's plan to conduct final closure operations for the Sunnyside Gold Mine. The discussions have been aimed at negotiating an order on consent to resolve a legal challenge (request for summary judgement) raised by the Company over a year ago. Last week, Judge Simmons of the Denver District Court issued an order which states that the company must file a notice to set and obtain a trial date by November 24, 1995 unless the case is settled. The trial would address difficult legal questions concerning whether seeps and springs which may develop following closure of the Sunnyside mine workings would be considered point sources under the Clean Water Act. We have been working with the company to develop a mutually acceptable approach to final closure of the mine which would avoid the necessity of dealing with those legal questions directly, while maintaining the significant improvements in water quality which have resulted from the companies on-going water treatment operations.

The concept we are developing for the consent agreement would involve the Company performing significant basin-wide clean-up activities to *maintain* or *improve* water quality in the upper animas watershed following closure of the mine. The existing quality of the upper basin has been substantially improved over the past several years due to intensive mine water treatment operations by the Sunnyside Gold Corporation. For example, the Company removes 99% of the 278 lbs/day of zinc loading from the mine, which prior to the Company's intervention, was discharged untreated to the river. The proposed non-point source clean-up activities are designed to compensate for impacts, if any, attributable to seeps and springs hydrologically connected to the mine pool that may result from the closure of the mine. If no such springs develop, then execution of the agreement should result in significant improvements to water quality in the upper basin. If seepage related to the mine closure does occur, the agreement is designed to preclude any worsening of the existing water quality in the upper basin caused by that source.

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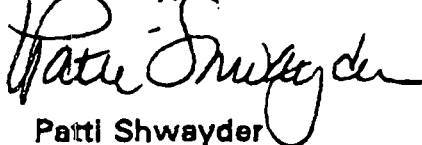
The agreement would provide for the satisfactory termination of stormwater permits and wastewater treatment facility permits several years after the mine pool has reached equilibrium and all treatment activities have ceased.

This agreement between the company and the state involves a number of complex and challenging technical and policy issues. As you know, there is a very active watershed stakeholders group working in the Upper Animas River Basin. The agreement is intended to spearhead the watershed-based approach to water quality improvement in the upper basin as desired by the stakeholders. The trade of nonpoint source remediation projects in the short term against mine related seepage which may occur over a longer time frame is an innovative regulatory solution, and unprecedented in the region.

I am writing this letter to encourage you to appoint Max Dodson as the point person for coordinating EPA's efforts with respect to the development of our agreement with Sunnyside Gold Corporation. I believe Max is the appropriate leader for this process given his current role in the region as well as his extensive past experience in mining and water quality issues both in the point source and non point source arenas. We feel it is vitally important that EPA maintain a constructive role in the development of our agreement. Given the time pressure imposed by the court for concluding our settlement negotiations and the likely steep learning curve for staff in new assignments brought about by the reorganization of the region, it is crucial to have someone with Max's experience and abilities to lead EPA's efforts on this matter.

I appreciate your consideration and assistance. If you have any questions don't hesitate to call me.

Sincerely,



Patti Shwayder
Acting Executive Director

PS/aa

Carol -
The letter
arrived - Max
is going to call
out of